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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1942

No. 501

CITY OF DUBUQUE BRIDGE COMMISSION,
Petitioner,

vs.

THE BOARD OF REVIEW FOR THE CITY OF DUBUQUE, JULIEN TOWNSHIP, DUBUQUE COUNTY, IOWA.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF IOWA AND BRIEF IN SUPPORT THEREOF.

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PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF IOWA.

To the Honorable Chief Justice and Associate Justices of the Supreme Court of the United States:

Petitioner, City of Dubuque Bridge Commission, prays that a Writ of Certiorari issue to review the judgment of the Supreme Court of the State of Iowa entered in the above case on August 11, 1942 (5 N. W. (2) 334, R. 88-107), affirming judgment and decree of the District Court of Iowa, in and for Dubuque County, dated January 29, 1942, and by their counsel petitioner respectfully shows:

Summary Statement of Matter Involved.

City of Dubuque Bridge Commission, a public body corporate and politic, (R. 23) is duly organized and existing

under an Act of Congress (Public—189—76th Congress, Chapter 318, First Session S. 955 Approved July 18, 1939) (R. 13). (Act of Congress July 18, 1939, Sections 1-15, 53 Statutes 1051-1057.) The Commission is a non-stock, non-profit corporation, whose funds must be devoted exclusively to the purpose of the Act, with the compensation of its members strictly defined and limited by law (R. 23). "To facilitate interstate commerce, improve the postal service and provide for military and other purposes" Congress authorized the Commission to purchase, construct, maintain and operate a bridge or bridges across the Mississippi River between Dubuque, Iowa, and East Dubuque, Illinois, and to finance the cost of the same by the issuance of bonds, to be paid from tolls collected on said bridge or bridges (R. 13-15). It also provides that when the bonds are retired the Commission shall convey the bridge or bridges to the respective states or their subdivisions in which the bridge or bridges are located, or to other interests, but on condition that the same shall thereafter be operated free of toll. If said states, or other interests, do not accept the same the Commission shall operate the same free of toll (R. 20-22).

Acting under authority conferred by said Act, the Commission in 1940 acquired an old toll bridge across the Mississippi River between the cities of Dubuque, Iowa, and East Dubuque, Illinois (R. 49-52, 73, 91-92), and is now constructing a new bridge (R. 54). The acquisition of the old bridge was deemed essential to the financing of the cost of the new bridge, as it was necessary to have the revenue from all traffic at this point available for the retirement of bonds. If the same were divided between competing bridges the revenue of the new bridge would be insufficient to retire bonds (R. 53, 54, 57, 58). When the new bridge is opened to public travel, the old bridge will be closed and dismantled as authorized by Congress (R. 48, 57, 58).

That portion of the old bridge located in Iowa was assessed for the year 1941 at a valuation of $107,500.00, less 5% per a general reduction, making a net assessed valuation of $102,225.00 (R. 29). The 1941 Iowa real estate consolidated levy in the City of Dubuque, Iowa, is 45.2 mills, making the 1941 taxes on said bridge in the sum of $4,620.57 (R. 29).

The Commission filed a complaint with the Board of Review for the City of Dubuque, Iowa, against said assessment, claiming that said bridge was exempt from taxation on the grounds (among others) that: (1) The Commission is a Federal Instrumentality and its property is, therefore, not subject to State taxation; and (2) said bridge is property of the United States and is exempt from taxation by Section 6944, Subparagraph 1, Code of Iowa, 1939, granting an exemption to "property of the United States" (R. 7).

The claim of immunity from taxation was denied by the Board of Review on June 12, 1941; (R. 9) an appeal was taken to the District Court of Iowa, in and for Dubuque County. The Board of Review denied the claim of the Commission and contended, as summarized in the opinion of the Supreme Court of Iowa, "that the Dubuque Bridge Commission was not entitled to exemption under the Act of Congress, and the fact that Congress failed to include the claim of exemption in the Bill is an indication that the property should be taxed" (R. 92) especially since a prior Act of Congress (75th) substantially the same as the one under which the Commission is acting, except that it contained an express exemption from all taxation, was vetoed by the President because of the inclusion therein of the tax exemption clause (R. 77, 78). Under date of January 29, 1942, said District Court adjudged and decreed that the bridge was not immune from State taxation (R. 80-82).